

REMARKS

Claims 1-16 are pending in the present application.

The Examiner has required a restriction in the present application between:

Group I, claims 1-11 and 15-16, drawn to modified factor VIII cDNA.

Group II, claims 12-13, drawn to drawn to a human factor VIII protein encoded by a modified factor VIII cDNA.

Group III, claim 14, drawn to a transfer vector for use in human gene therapy characterized in that it comprises a modified factor VIII cDNA.

This requirement is respectfully traversed. Reconsideration and withdrawal thereof are requested.

The Examiner asserts that the inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1. Applicants submit, however, that the Examiner has not properly construed or applied the unity of invention standard applicable under PCT Rule 13.

Under PCT Rule 13.2, the application fulfills the unity of invention requirement when there is “a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression ‘special technical features’ shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.” In the present application, the “technical relationship” or “special technical feature” involved with all of the claims is the modified factor VIII cDNA recited in claim 1, as is apparent since all of the claims are directly or indirectly dependant on claim 1. Applicants submit that this technical relationship and special technical

feature is common to the invention recited in all the claims, and thereby provides clear unity of invention.

The Examiner will also note that no unity of invention objection was raised during the international phase of this application, which also applies the unity of invention standard of PCT Rule 13. An international application which complies with those unity of invention requirements must then be accepted by all of the designated and elected offices, including the USPTO, since Article 27(1) of the Patent Cooperation Treaty does not permit any national law or national office to require compliance with different regulations relating to the contents of the international application. Thus, the U.S. application must be examined for unity of invention consistent with the Patent Cooperation Treaty, not just by giving verbal assent to the unity of invention standard but in actual application of the standard. See *Caterpillar Tractor Co. v. Commissioner of Patents and Trademarks*, 231 USPQ 590 (E.D. VA. 1986)

For the above reasons, applicants request that the restriction requirement be withdrawn in its entirety and that all the claims be examined in this application.

But in order to be fully responsive to the Restriction Requirement, applicants elect, with traverse, should the Examiner persist in the requirement, to prosecute the claims of Group I, i.e. claims 1-11, and 15-16.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson, Registration No 30,330 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Response to Restriction Requirement to be filed on January 26, 2011

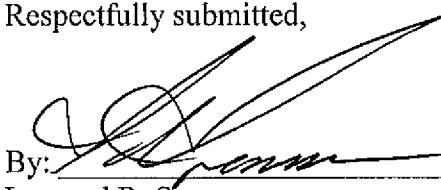
Attached is a Petition for Extension of Time.

Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: January 26, 2011

Respectfully submitted,

By: 

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